



San Francisco Water Power Sewer

Services of the San Francisco Public Utilities Commission

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Via Email (torres.tomas@epa.gov)

February 3, 2020

Tomas Torres
Director, Water Division
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Re: Oceanside NPDES Permit Effective Date

Dear Director Torres,

The San Francisco Public Utilities Commission (“SFPUC”) is writing to follow-up on our letter dated December 27, 2019. In that letter, we preliminarily responded to your December 16, 2019 request to consent to a minor modification of the National Pollutant Discharge Elimination System (“NPDES”) permit for the City and County of San Francisco Oceanside Water Pollution Control Plant, Wastewater Collection System, and Westside Recycled Water Project (“Oceanside permit”) pursuant to 40 C.F.R. § 122.63(a). Specifically, you seek to correct an error in the effective date of the NPDES permit from February 1, 2019 to February 1, 2020. We explained that we are evaluating your request but, given the complexity of the effective date topic, we need clarification on the EPA’s position regarding the Regional Water Quality Control Board’s interpretation of the effective date of the Oceanside permit, which appears to be in conflict with EPA’s position.

Subsequently, on January 13, 2020, we filed a petition for review of the Oceanside permit with the Environmental Appeals Board. Pursuant to 40 C.F.R. § 124.16(a), the contested permit conditions (and uncontested conditions which are not severable from those contested) shall be stayed. “The Regional Administrator shall, as soon as possible after receiving notification from the EAB of the filing of a petition for review, notify the EAB, the applicant, and all other interested parties of the uncontested (and severable) conditions of the final permit that will become fully effective enforceable obligations of the permit. . .” 40 C.F.R. § 124.16(a)(2)(ii). These conditions will be come effective 30 days after the date of the Regional Administrator’s notification. *Id.*

The February 1, 2020 date is imminent, yet we have not received any response to our December 27 letter. Nor have we received a notification from the Regional Administrator regarding the uncontested (and severable) conditions of

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the Oceanside permit, despite submitting our petition to the Environmental Appeals Board more than two weeks ago. The SFPUC respectfully requests that EPA promptly provide the necessary information so that we can work towards resolving the substantial ambiguity and uncertainty with effective date of the Oceanside permit.

Sincerely,

A handwritten signature in blue ink that reads "M.P. Carlin". The signature is stylized and written in a cursive-like font.

Michael P. Carlin
Deputy General Manager & Chief Operating Officer
San Francisco Public Utilities Commission

cc: Becky Mitschele, Permits Branch, U.S. EPA Region 9
Michael Montgomery, San Francisco Bay Regional Water Quality Control Board
Dan Harris, California Department of Justice
Marc Melnick, California Department of Justice
John Roddy, San Francisco Office of the City Attorney
Tom Boer, Hunton Andrews Kurth